

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 7, 2004

IN RE:

**PETITION OF INTEGRATED RESOURCE
MANAGEMENT UTILITY, INC., TO AMEND
ITS CERTIFICATE OF CONVENIENCE AND
NECESSITY**

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DOCKET NO. 04-00152

**ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a Hearing held on August 30, 2004, to consider the *Petition of IRM Utility, Inc. to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority amend its service area to include a portion of Knox County known as Lot 23-The River Club Subdivision.

Legal Standard for Granting Certificate of Public Convenience and Necessity

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Tennessee Regulatory Authority. The procedure for obtaining a certificate of convenience and necessity ("CCN") evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity

require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

Background

On August 7, 2003, Integrated Resource Management Utility, Inc. ("IRM") filed an application for a CCN in Docket No. 03-00467. On November 10, 2003, the Authority approved IRM's application and granted IRM a CCN to provide sewer service to two (2) customers in Sevier County, Tennessee.¹

IRM filed the *Petition* on May 19, 2004, to expand its service area to include a portion of Knox County, Tennessee, known as Lot 23-The River Club Subdivision. At a regularly scheduled Authority Conference on July 26, 2004, the voting panel assigned to this docket voted unanimously to appoint the Authority's General Counsel or his designee to act as the Hearing Officer in this proceeding to hear preliminary matters prior to the Hearing and to set a procedural schedule to completion.² The Hearing Officer issued a *Notice of Hearing* on August 2, 2004, announcing that the voting panel assigned to this docket would conduct the Hearing on the merits of the *Petition* on Monday, August 30, 2004, immediately following the regularly scheduled Authority Conference.

The Petition

The *Petition* requests an expansion of IRM's authorized service area to include a portion of Knox County known as Lot 23-The River Club Subdivision. A map showing the area to which IRM proposes to extend its service is attached to the *Petition*. IRM filed a Sewer Service Agreement³

¹ See *In re Application of Integrated Resource Management Utility, Inc. for a Certificate of Public Convenience and Necessity to Provide Wastewater Systems Services*, Docket No. 03-00467, *Order Approving Application for a Certificate of Public Convenience and Necessity, Tariff and Special Contract* (March 16, 2004)

² *Order Appointing a Hearing Officer* (August 3, 2004)

³ *Petition, Exhibit B*

with the *Petition* stating that the commercial sewer rate for Lot 23-The River Club Subdivision will be one hundred twelve dollars (\$112.00) per month in accordance to its Utility Tariff for large commercial flows. The rate schedule comports with the rate schedule approved by the Authority in Docket No. 03-00467.

The *Petition* states that the subject area is platted and recorded in the Knox County Courthouse in Knoxville, Tennessee. In its *Petition*, IRM contends that Knox County and the First Utility District of Knox County have declined to provide wastewater treatment service to Lot 23-The River Club Subdivision. In support of this contention, IRM attached a letter from Mr. Robert A. Burnett with the Engineering and Construction Department of the First Utility District of Knox County, affirming that the Utility District does not intend on providing sanitary sewer service to Lot 23-The River Club Subdivision in the near future; and a letter from the Mayor of Knox County, Mr. Mike Ragsdale, stating that the Knox County Engineering and Public Works Department does not have any plans of providing sanitary sewer service to the subject area.

The August 30, 2004 Hearing



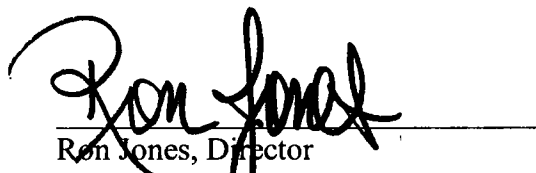
Pursuant to Tenn. Code Ann. § 65-4-203(b), public notice of the Hearing in this matter was issued by the Hearing Officer on August 2, 2004. No persons sought intervention prior to or during the Hearing. At the Hearing held on August 30, 2004, Mr. Jeffrey William Cox, President of IRM, participated in the Hearing, presented testimony, and was subject to examination by the panel assigned to this docket. Charles B. Welch, Jr., Esq.; Farris, Matthews, Brannan, Bobango & Hellen, PLC, 618 Church Street, Suite 300, Nashville, Tennessee 37219 appeared on behalf of IRM. Upon the presentation of IRM's conclusion of proof in its case and the evidentiary record as a whole and in light of the legal standard set forth in Tenn. Code Ann. § 65-4-201(a), Chairman Pat Miller,

Director Deborah Taylor Tate and Director Ron Jones voted unanimously at the Hearing to approve IRM's *Petition*.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of IRM Utility, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include Lot 23-The River Club Subdivision, as shown in the map attached to the *Petition* is approved.

2. Integrated Resource Management Utility, Inc.'s rates for wastewater service to Lot 23-The River Club Subdivision shall be in compliance with the rate schedule issued by the Authority on March 16, 2004, in the *Order Approving Application for a Certificate of Public Convenience and Necessity, Tariff and Special Contract*, TRA Docket No. 03-00467, and as set forth in this Order.


Pat Miller, Chairman
Deborah Taylor Tate, Director
Ron Jones, Director